

REMARKS

Applicants reply to the Office Action dated January 15, 2010 within three months. Claims 1-14 and 16-23 are pending in the application and the Examiner rejects claims 1-14 and 16-23. Support for the amendments may be found in the originally-filed specification. No new matter is entered with these amendments. Applicants respectfully request reconsideration of this application.

Rejections under 35 U.S.C § 103

The Examiner rejects claims 1-2, 6-11, 13 and 21 under 35 U.S.C. § 103(a), as being unpatentable over Cannon et al., U.S. Patent No. 6,154,729, (“Cannon”), in view of Lee et al., U.S. Publication No. 2002/0099649 (“Lee”) and further in view of Breck et al., U.S. Patent No. 7,627,531 (“Breck”). The Examiner rejects claims 3-5 and 12 under 35 U.S.C. § 103(a), as being unpatentable over Cannon in view of Lee and Breck and in further view of Sharper et al., U.S. Publication No. 2004/0030644 (“Sharper”). The Examiner rejects claims 14-20 and 22-23 under 35 U.S.C. § 103(a), as being unpatentable over Cannon in view of Breck and Sharper and further in view of Breck et al., U.S. Patent No. 7,527,531 B2. However, Applicants note that U.S. Patent No. 7,527,531 B2 is not to Breck et al. but instead to Lin, entitled “Vehicular light emitting diode connector,” which does not appear pertinent in the present case. Applicants respectfully disagree with these rejections, but Applicants present claim amendments in order to clarify the patentable aspects of the claims and to expedite prosecution.

The Examiner states at page 5, “Bre teaches: ...wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant ((Bre) in at least Col 11 lines 15-40).” However, Applicants assert that Breck does not mention a disputed credit transaction, therefore Breck is incapable of disclosing “a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.

The Examiner on page 5 states, “Both the [] and Bre are explicitly directed toward determining credit risk associated with transactions,” (emphasis added.) It is not clear to what the Examiner is referring in the open bracket. Breck is directed to “facilitating a transaction

using a secondary transaction number that is associated with a cardholder's primary account," not determining credit risk associated with transactions. (Abstract.) Using the system of Breck, "a cardholder provides the secondary transaction number, often with limited-use conditions associated therewith, to a merchant to facilitate a more secure and confident transaction." (Id.) The Examiner states on pages 5, "Bre teaches the motivation for limit use conditions in order to provide increase security and control card holder spending. The combination explicitly teaches determining fines based upon a threshold of set parameters," (emphasis added.) Assuming *arguendo* that Breck teaches the motivation for limit use conditions in order to provide increase security and control card holder spending, which Applicants do not, it is not clear what relevance limit use conditions on a transaction instrument in order to provide increased security and control over card holder spending has to the current limitations as claimed. Moreover, Breck does not disclose or contemplate "assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant," as recited by independent claim 1 (emphasis added) and similarly recited by independent claims 14 and 20. Therefore, Applicants respectfully assert that Breck is not a proper reference under 35 U.S.C. § 103(a) and Applicants respectfully request all rejections based upon its combination be withdrawn.

The Examiner, at pages 4 and 5, states

"Cannon does not explicitly teach" ...assessing using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, when the merchant's ratio is at least equal to the predetermined threshold ratio; and wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant. Lee teaches: ... assessing using the computer-based system, a fee against the merchant for each disputed transaction ((Lee) para 0019 line 1) involving the merchant that exceeds the predetermined threshold ratio (Lee) para 0019), when the merchant's ratio is at least equal to the predetermined threshold ratio (see par 19, note that both a fee per chargeback and a fine for too many chargebacks (i.e. typically 1.5-3% of volume) are both taught. The combination of these methods of penalizing chargebacks fairly suggests charging a fee for each

transaction that exceeds a threshold in so far as the fee per chargeback suggests the 'for each' component and the fine for having too many suggests applying the fee above a threshold),..."

Lee discloses two concepts. First, fines for a merchant are triggered when the merchant incurs a quantity of chargebacks at a certain level (e.g. "too many"). Secondly, the fines may be imposed based on a volume of total chargebacks. In contrast to chargebacks that are a result of unresolved disputed transactions, independent claim 1 (and similarly independent claims 14 and 20) recite "a predetermined threshold ratio based on disputed credit transactions," (emphasis added). Moreover, Lee does not disclose or contemplate setting a "threshold ratio," as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.

Assuming arguendo, that Lee does teach a threshold ratio, which Applicants do not, Lee does not disclose or contemplate "the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant," as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.

Cannon generally teaches a "method of reporting merchant information to banks via the World Wide Web includes compiling merchant information periodically into reports," (abstract.) As previously stated and conceded by the Examiner, at pages 4 and 5, "Cannon does not explicitly teach "...assessing using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, when the merchant's ratio is at least equal to the predetermined threshold ratio; and wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant."

Thus, Cannon, Lee, Breck, alone or in combination, do not disclose or contemplate at least "assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant," as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.

Dependent claims 2, 6-11, 13 and 21 variously depend from independent claims 1, 14 and 20. Therefore, Applicants assert that dependent claims 2-13, 16-19 and 21-23 are patentable for at least the same reasons stated above for differentiating independent claims 1, 14 and 20 as well as in view of their own respective features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 2-13, 16-19 and 21-23.

Sharper generally teaches “a method for facilitating charge card transactions including evaluating electronically transmitted data relating to a charge card transaction and guaranteeing a charge card transaction that meets certain criteria against risk of loss,” (abstract.) Sharper is silent to and thus does not disclose or contemplate at least “assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added).

Thus, Cannon, Lee, Breck, Sharper, alone or in combination, do not disclose or contemplate at least “assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added) and similarly recited by independent claims 14 and 20.

Dependent claims 3-5 and 12 variously depend from independent claim 1. Therefore, Applicants assert that dependent claims 3-5 and 12 are patentable for at least the same reasons stated above for differentiating independent claim 1 as well as in view of their own respective features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 3-5 and 12.

The Examiner at pages 12 and 13 states, “Claims 14-20 and 22-23 are rejected under 35 U.S.C. § 103(a), as being unpatentable over Cannon in view of Lee and US Patent No. 7,627,531 B2 by Breck et al (Bre) in further view of US Patent Application Publication 2004/0030644 to Sharper (Sharper) and further in view of US Patent No. 7,527,531 B2 by Breck et al (Bre). Patent No. 7,527,531 to Yu-Chu Lin entitled “Vehicular light emitting diode connector” appears

to have been cited in error. Applicants assert that claims 14-20 and 22-23 are patentable for at least the same reasons stated above related to the combination of Cannon, Lee, Breck, and Sharper as well as in view of their own respective features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 14-20 and 22-23. Alternatively, Applicants respectfully request that the Examiner provide a clarification as what citations were intended in the Office Action.

When a phrase similar to “at least one of A, B, or C” or “at least one of A, B, and C” is used in the claims or specification, Applicants intend the phrase to mean any of the following: (1) at least one of A; (2) at least one of B; (3) at least one of C; (4) at least one of A and at least one of B; (5) at least one of B and at least one of C; (6) at least one of A and at least one of C; or (7) at least one of A, at least one of B, and at least one of C.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. Applicants invite the Examiner to telephone the undersigned, if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

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By: 

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